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United States General Accounting Office  
Washington, DC 20548

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B-290614

June 13, 2002

The Honorable Jeff Bingaman  
Chairman  
The Honorable Frank H. Murkowski  
Ranking Minority Member  
Committee on Energy and Natural Resources  
United States Senate

The Honorable W.J. "Billy" Tauzin  
Chairman  
The Honorable John D. Dingell  
Ranking Minority Member  
Committee on Energy and Commerce  
House of Representatives

Subject: Department of Energy, Office of Energy Efficiency and Renewable Energy:  
Energy Conservation Program for Consumer Products; Central Air  
Conditioners and Heat Pumps Energy Conservation Standards

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Energy (DOE), Office of Energy Efficiency and Renewable Energy, entitled "Energy Conservation Program for Consumer Products; Central Air Conditioners and Heat Pumps Energy Conservation Standards" (RIN: 1904-AA77). We received the rule on May 30, 2002. It was published in the Federal Register as a final rule on May 23, 2002. 67 Fed. Reg. 36368.

The final rule amends the existing energy conservation standards for central air conditioners and heat pumps by raising the minimum energy efficiency levels by 20 percent for most central air conditioners and heat pumps, with somewhat lower levels for certain space-constrained products. The Federal Register publication also withdraws a final rule—published on January 22, 2001, but which never became effective—that would have established higher standards.

Enclosed is our assessment of the DOE's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the DOE complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Robert Robinson, Managing Director, Natural Resources and Environment. Mr. Robinson can be reached at (202) 512-3841.

signed

Kathleen E. Wannisky  
Managing Associate General Counsel

Enclosure

cc: Neal J. Strauss  
Assistant General Counsel for  
Regulatory Law  
Department of Energy

ENCLOSURE

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF ENERGY,  
OFFICE OF ENERGY EFFICIENCY AND RENEWABLE ENERGY  
ENTITLED  
"ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS;  
CENTRAL AIR CONDITIONERS AND  
HEAT PUMPS ENERGY CONSERVATION STANDARDS"  
(RIN: 1904-AA77)

(i) Cost-benefit analysis

DOE performed a cost-benefit analysis as part of its Regulatory Impact Analysis, which is summarized in the preamble to the final rule.

Based on the type of system purchased, the average installed price of a unit would rise from \$144 to \$213 with these cost increases recovered through energy savings over 4 to 9.8 years. DOE expects the final rule to result in energy savings of 3 quads of energy over 25 years (2006 through 2030), a reduction of 24 million metric tons of carbon and 80 thousand metric tons of nitrous oxides from 2006 through 2020. In total, DOE estimates the final rule will have a net benefit of \$2 billion over 25 years.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

DOE has certified that the final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The final rule contains a private sector mandate of more than \$100 million in any one year. There are no intergovernmental mandates. DOE's compliance with the act's documentary requirements regarding costs, benefits, and alternatives considered are contained in DOE's Regulatory Impact Analysis, which was prepared for compliance with Executive Order No. 12866. Section 202 of the Unfunded Mandates Reform Act of 1995 authorizes such use of other analyses for compliance.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The final rule was issued using the notice and comment procedures found at 5 U.S.C. 553.

On October 5, 2000, DOE published a Notice of Proposed Rulemaking (NPRM) in the Federal Register. 65 Fed. Reg. 59590. This rule was published as a final rule on January 22, 2001. 66 Fed Reg. 7170.

Pursuant to President Bush's Regulatory Review Plan, DOE reexamined the rule, since it was not yet effective, and also considered a petition for reconsideration the agency had received. DOE granted the petition for reconsideration and on July 25, 2001, published a supplemental NPRM in the Federal Register. 66 Fed. Reg. 38822.

The comments received in response to the July 25 proposal are discussed in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule does not contain any information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Statutory authorization for the rule

The final rule is promulgated under the authority contained in section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295).

Executive Order No. 12866

The final rule was reviewed by OMB and found to be an "economically significant" regulatory action.

Executive Order No. 13132 (Federalism)

DOE has determined that the final rule will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

State regulations that may have existed on the products were preempted by the federal standards established in the National Appliance Energy Conservation Act of 1987.